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8 *Rashonda Smith, Jo Gentry,*
and Brian Williams
9

10 UNITED STATES DISTRICT COURT

11 DISTRICT OF NEVADA

12 LAUSTEVEION JOHNSON,

13 Plaintiff,

14 v.

15 RASHONDA SMITH, *et al.*,

16 Defendants.

Case No. 2:17-cv-00156-GMN-DJA

**DEFENDANTS' MOTION TO CONTINUE
THE SETTLEMENT CONFERENCE
(FIRST REQUEST)**

17 Defendants James Cox, James Dzurenda, Rashonda Smith, Jo Gentry, and Brian
18 Williams, by and through counsel, Aaron D. Ford, Nevada Attorney General, and Katlyn
19 M. Brady, Deputy Attorney General, request this Court reschedule the Settlement
20 Conference currently scheduled for February 21, 2020.

21 **MEMORANDUM OF POINTS AND AUTHORITIES**

22 **I. PROCEDURAL HISTORY**

23 Lausteveion Johnson is an inmate lawfully incarcerated in the Nevada Department of
24 Corrections. On March 1, 2018, Johnson filed the First Amended Complaint. ECF No. 7. On
25 February 20, 2019, this Court issued a Screening Order permitting two claims to proceed.
26 ECF No. 10.

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1 On December 2, 2019, Johnson filed a Motion for Partial Summary Judgment. ECF
2 No. 34. On December 5, 2019, Defendants filed a Motion for Summary Judgment. ECF No.
3 35. These motions remain pending.

4 On December 17, 2019, this Court entered an Order Setting a Settlement Conference
5 for February 21, 2019. ECF No. 40.

6 Johnson is involved in several federal court cases, including *Lausteveion Johnson v.*
7 *Northern Nevada Correctional Center, et al.*, Case No. 2: 15-cv-00884-JAD-NJK. On January
8 2, 2020, the Honorable Judge Dorsey set a bench trial in this matter for February 20, 2020.
9 Undersigned counsel is the lead counsel in both cases. Further, the bench trial in 0884 has
10 already been moved once due to Johnson's litigation schedule. Specifically, the bench trial
11 was initially scheduled for January 17, 2020. However, the trial was moved because Johnson
12 has a Settlement Conference in another case scheduled for January 17, 2020.

13 Defendants now seek to reschedule the Settlement Conference as undersigned counsel
14 will be unable to prepare for the settlement conference, given Johnson has a trial scheduled
15 for the day before the Settlement Conference. Further, while the parties anticipate the trial
16 lasting one day, due to the number of witnesses it may last two days.

17 II. APPLICABLE LAW

18 District courts have inherent power to control their dockets. *Hamilton Copper & Steel*
19 *Corp. v. Primary Steel, Inc.*, 898 F.2d 1428, 1429 (9th Cir. 1990); *Olivia v. Sullivan*, 958 F.2d
20 272, 273 (9th Cir. 1992). Under Fed. R. Civ. P. 16(b)(a) "schedule shall not be modified except
21 upon a showing of good cause and by leave of the district judge or, when authorized by local
22 rule, by a magistrate judge."

23 III. ARGUMENT

24 This Court should reschedule the February 21, 2020 Settlement Conference.
25 Undersigned counsel is currently scheduled to participate in a federal bench trial on February
26 20, 2020. *See* Declaration of Counsel, attached as Exhibit A. As the Settlement Conference in
27 this matter is scheduled for the day after the trial, undersigned counsel will be unable to
28 adequately prepare for the settlement conference. *Id.* As undersigned counsel is lead counsel

1 in both matters, the Settlement Conference cannot be transferred to another attorney because
2 a new attorney would need additional time to familiarize themselves with this case.

3 Further, preparing for the Settlement Conference while Johnson and counsel
4 simultaneously prepare for trial may raise an ethical issue. Specifically, it appears improper
5 for undersigned counsel to contact and discuss settlements with Johnson, while he is
6 simultaneously working with counsel in another case. This is particularly concerning, as
7 Johnson has proposed several global settlements that would resolve multiple cases, included
8 cases where he is represented by counsel.

9 Accordingly, good cause exists to reschedule the Settlement Conference based upon
10 undersigned counsel's participation in a trial and the potential ethical concerns.

11 Defendants are available for a Settlement Conference on: March 16, 18-20, 23, 25-27,
12 April 1-3, 6, 8-10, 13, and 15th.

13 DATED this 8th day of January, 2020.


14 Respectfully submitted,

15 AARON D. FORD
16 Attorney General

17 By: /s/ Katlyn M. Brady
18 Katlyn M. Brady (Bar No. 14173)
19 Deputy Attorney General
20 *Attorneys for Defendants*

21 IT IS ORDERED that Defendants' Motion to Continue the Settlement Conference
22 (ECF No. 45) is GRANTED. The settlement conference currently set for
23 2/21/2020 is RESET for Thursday, 4/2/2020. Settlement conference briefs are
24 due by 4:00 p.m. on 3/26/2020. All other provisions of the Court's original order
25 scheduling the settlement conference (ECF No. 40) remain in effect.

26 DATED: January 9, 2020.

27 
28 Daniel J. Albregts
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on January 8, 2020, I electronically filed the foregoing document via this Court's electronic filing system. Parties who are registered with this Court's electronic filing system will be served electronically. For those parties not registered, service was made by depositing a copy for mailing in the United States Mail, first-class postage prepaid, at Las Vegas, Nevada, addressed to the following:

Lausteveion Johnson, #82138
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89070
Johnson, Pro Se

/s/ Yolonda Laster
Yolonda Laster, an employee of the
Office of the Nevada Attorney General